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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(HRL)

) CLASS ACTION

This Document Relates To:

ALL ACTIONS.

) PLAINTIFFS' NOTICE OF MOTION AND
) MOTION FOR LEAVE TO FILE
) PLAINTIFFS' OPPOSITION TO APPLE'S
) SUPPLEMENTAL OBJECTIONS TO
) REPLY DECLARATION OF ROGER G.
) NOLL AND SUPPLEMENTAL
) OPPOSITION TO CLASS CERTIFICATION
) MOTION

JUDGE: Hon. James Ware
DATE: TBD
TIME: TBD
CTRM: 8, 4th Floor

1 TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

2 PLEASE TAKE NOTICE that pursuant to Local Rule 7-11, as soon as the Court's schedule
3 allows, in Courtroom 8, 4th Floor, of the above-captioned Court, located at 280 South First Street,
4 San Jose, California 95113, before the Honorable James Ware, Plaintiffs Melanie Tucker, Marianna
5 Rosen and Somtai Troy Charoensak (collectively, "Plaintiffs") will and hereby do through
6 undersigned counsel, move the Court for leave to respond to Apple's supplemental objections to the
7 reply declaration of Plaintiffs' expert, Professor Roger G. Noll, and to respond to Apple's improper
8 supplemental opposition to Plaintiffs' motion for class certification.

9 As Plaintiffs explain in their response to Apple's improper motion, Apple has completely
10 mischaracterized the deposition of Professor Noll and has improperly filed a supplemental
11 opposition to Plaintiffs' class certification motion. Their motion is in violation of the Court's Order
12 setting a briefing schedule and gives Plaintiffs no opportunity to respond, effectively giving Apple
13 the last word on Plaintiffs' motion. It would be unfair to allow Apple's blatant distortion of
14 Professor Noll's testimony to go un rebutted. Contrary to Apple's characterization, Professor Noll
15 developed a workable preliminary regression model, which shows that impact and damages can be
16 proved by relying on common proof. Apple's selective quoting and out-of-context snippets do
17 nothing to change the fact that legal and factual issues predominate over any individual issues.

18 Plaintiffs submit that good cause exists to permit a short response to rebut Apple's improper
19 portrayal of Professor Noll's testimony.

20 DATED: April 15, 2011

Respectfully submitted,

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25 Additional Counsel for Plaintiffs

1 CERTIFICATE OF SERVICE

2 I hereby certify that on April 15, 2011, I authorized the electronic filing of the foregoing with
3 the Clerk of the Court using the CM/ECF system which will send notification of such filing to the
4 e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I
5 caused to be mailed the foregoing document or paper via the United States Postal Service to the non-
6 CM/ECF participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct. Executed on April 15, 2011.

9 s/ Bonny E. Sweeney
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Manual Notice List

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- (No manual recipients)