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 APPLE INC.

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

13 THE APPLE IPOD iTUNES ANTI-TRUST
 LITIGATION.

Lead Case No. C 05-00037 JW

[CLASS ACTION]

16 This Document Relates To:

17 ALL ACTIONS.

**DECLARATION OF DAVID KIERNAN
 IN SUPPORT OF APPLE'S
 ADMINISTRATIVE MOTION
 REGARDING SEVEN MOTIONS
 RENOTICED BY PLAINTIFFS**

20 1. I am a partner in the law firm of Jones Day, located at 555 California Street, 26th
 21 Floor, San Francisco, CA 94104. I submit this declaration in support of Apple's Administrative
 22 Motion Regarding Seven Motions Renoticed By Plaintiffs (Doc. 680). The facts stated in this
 23 declaration are true and based upon my own personal knowledge, and if called to testify to them, I
 24 would competently do so.

25 2. In response to plaintiffs' renoticing of motion (Doc. 680), I asked plaintiffs'
 26 counsel to stipulate to additional briefing on class certification on the ground that the briefs and
 27 other pleadings are outdated in light of the court's subsequent rulings. Specifically, I asked
 28 plaintiffs' counsel to agree either to (i) a revised motion to certify with opposition due on

1 November 14, plaintiffs' reply on November 21, and a hearing on December 5 or
2 (ii) simultaneous briefs (10-15 pages in length) due on November 21 with hearing on
3 December 5. In addition, I asked plaintiffs to stipulate to an evidentiary hearing.

4 3. Plaintiffs' counsel confirmed that plaintiffs will not stipulate to any of the above.

5 Executed this 14th day of October, 2011 in San Francisco, California.

6
7 /s/ David C. Kiernan

8 David C. Kiernan

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10 SFI-714235v1