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11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 OAKLAND DIVISION

14 THE APPLE IPOD ITUNES ANTI-TRUST)	Lead Case No. C-05-00037-YGR
15 LITIGATION)	
16 _____)	<u>CLASS ACTION</u>
17 This Document Relates To:)	PLAINTIFFS' ADMINISTRATIVE
18 ALL ACTIONS.)	MOTION TO FILE PORTIONS OF
19 _____)	PLAINTIFFS' DAUBERT MOTION TO
	EXCLUDE CERTAIN OPINION
	TESTIMONY OF KEVIN M. MURPHY
	AND ROBERT H. TOPEL AND EXHIBITS
	1-10 UNDER SEAL PURSUANT TO CIVIL
	L.R. 7-11 AND 79-5

21 DATE: February 18, 2014
 22 TIME: 2:00 p.m.
 23 CTRM: 5, 2nd Floor
 JUDGE: Hon. Yvonne Gonzalez Rogers

1 Plaintiffs’ Melanie Tucker, Somtai Troy Charoensak and Mariana Rosen (collectively,
2 “plaintiffs”) respectfully submit this Administrative Motion for leave to file under seal portions of
3 Plaintiffs’ *Daubert* Motion to Exclude Certain Opinion Testimony of Kevin M. Murphy and Robert
4 H. Topel and Exhibits 1-10 to the Declaration of Bonny E. Sweeney in Support of Plaintiffs’
5 *Daubert* Motion to Exclude Certain Opinion Testimony of Kevin M. Murphy and Robert H. Topel
6 (“Sweeney *Daubert* Declaration”). Specifically, plaintiffs seek leave to file under seal: Exhibit 1,
7 the Declaration of Jeffrey M. Wooldridge in Support of Plaintiffs’ *Daubert* Motion to Exclude
8 Certain Opinion Testimony of Robert H. Topel and Kevin M. Murphy; Exhibit 2, Declaration of
9 Roger G. Noll on Liability and Damages; Exhibit 3, Corrections to Declaration of Roger G. Noll on
10 Liability and Damages; Exhibit 4, Rebuttal Declaration of Roger G. Noll on Liability and Damages;
11 Exhibit 5, Expert Report of Kevin M. Murphy (Amended); Exhibit 6, Expert Report of Robert H.
12 Topel (Amended); Exhibit 7, Supplemental Declaration of Augustin Farrugia, dated July 2, 2013;
13 Exhibit 8, Excerpts from the December 18, 2013 Deposition Transcript of Professor Roger G. Noll;
14 Exhibit 9, Excerpts from the November 8, 2013 Deposition Transcript of Robert Topel, Ph.D.; and
15 Exhibit 10, Excerpts from the November 12, 2013 Deposition Transcript of Kevin Murphy, Ph.D.
16 Plaintiffs bring this motion pursuant to Civil Local Rules 7-11 and 79-5 and the June 13, 2007
17 Stipulated Protective Regarding Confidential Information (“Protective Order”).

18 Portions of Plaintiffs’ *Daubert* Motion to Exclude Certain Opinion Testimony of Kevin M.
19 Murphy and Robert H. Topel and Exhibits 1-10 attached to the Sweeney *Daubert* Declaration are
20 being lodged with the Court. The documents refer to information and quote documents produced
21 and designated “Confidential” in this action by defendant Apple Inc. (“Apple”).

22 The Protective Order requires that the parties file a request to seal any discovery they submit
23 to the Court that is designated “Confidential.” Protective Order, ¶7. Although plaintiffs do not
24 necessarily believe it is critical to seal the designated documents and information from the public
25 record, especially in light of the “compelling reasons” test set forth by the Ninth Circuit in
26 *Kamakona v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006), plaintiffs have filed the
27 instant motion so as to comply with the Protective Order.

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1 Consistent with Rule 79-5(e), within four days of the filing of plaintiffs' Administrative
2 Motion to File Under Seal, the designating party must file with the Court and serve declarations
3 supporting the request to seal the protected material and must lodge and serve a narrowly tailored
4 proposed sealing order, or the information at issue will be made part of the public record. Further,
5 plaintiffs are providing the Court with redacted and unredacted, highlighted versions of Plaintiffs'
6 *Daubert* Motion to Exclude Certain Opinion Testimony of Kevin M. Murphy and Robert H. Topel
7 and Exhibits 1-10 attached to the Sweeney *Daubert* Declaration.

8 For the foregoing reasons, plaintiffs respectfully request that the Court grant plaintiffs'
9 Administrative Motion to File Under Seal and issue an order sealing portions of Plaintiffs' *Daubert*
10 Motion to Exclude Certain Opinion Testimony of Kevin M. Murphy and Robert H. Topel and
11 Exhibits 1-10 attached to the Sweeney *Daubert* Declaration.

12 DATED: December 20, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2013, I authorized the electronic filing of 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 caused to be 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 December 20, 2013.

s/ Bonny E. Sweeney
BONNY E. SWEENEY

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- (No manual recipients)