

1 Robert A. Mittelstaedt (State Bar No. 60359)
 ramittelstaedt@JonesDay.com
 2 Craig E. Stewart (State Bar No. 129530)
 cestewart@JonesDay.com
 3 David C. Kiernan (State Bar No. 215335)
 dkiernan@JonesDay.com
 4 Amir Q. Amiri (State Bar No. 271224)
 aamiri@JonesDay.com
 5 JONES DAY
 555 California Street, 26th Floor
 6 San Francisco, CA 94104
 Telephone: +1.415.626.3939
 7 Facsimile: +1.415.875.5700

8 Attorneys for Defendant
 APPLE INC.

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

14 **THE APPLE IPOD ITUNES ANTITRUST
 LITIGATION**

Case No. C-05-0037 YGR

[CLASS ACTION]

**DECLARATION OF DAVID C.
 KIERNAN IN SUPPORT OF
 APPLE'S OPPOSITION TO
 PLAINTIFFS' DAUBERT MOTION**

21 I, David C. Kiernan, declare as follows:

22 1. I am a partner of Jones day, counsel of record for Defendant Apple Inc. I am an
 23 active, licensed member of the State Bar of California. I make this declaration in support of
 24 Apple's Opposition to Plaintiffs' *Daubert* Motion to Exclude Certain Opinion Testimony of
 25 Kevin M. Murphy and Robert H. Topel. I am familiar with the file maintained by Jones Day in
 26 this matter. The facts stated in this declaration are true and based upon my own personal
 27 knowledge, and if called to testify to them, I would competently do so.

1 2. Attached hereto as **Exhibit 1** is a true and correct copy of portions of the transcript
2 of the deposition of Kevin M. Murphy, Ph.D., conducted January 8, 2014. The full transcript is
3 maintained by Jones Day in its files in the ordinary course of business.

4 3. Attached hereto as **Exhibit 2** is a true and correct copy of portions of the
5 transcript of the deposition of Robert H. Topel, Ph.D., conducted January 8, 2014. The full
6 transcript is maintained by Jones Day in its files in the ordinary course of business.

7 4. Attached hereto as **Exhibit 3** is a true and correct copy of Chapter 6
8 (“Econometrics and Regression Analysis”) of the ABA Section of Antitrust Law, *Proving*
9 *Antitrust Damages: Legal and Economic Issues*, 2d Ed. (ABA Publishing, 2010). A full copy of
10 the book is available in Jones Day’s legal library.

11 5. Attached hereto as **Exhibit 4** is a true and correct copy of Chapter 8
12 (“Nonstandard Standard Error Issues”) of Angrist, Joshua and Jorn-Steffan Pischke, *Mostly*
13 *Harmless Econometrics, An Empiricists Companion* (Princeton Univ. Press, 2009). Jones Day
14 maintains this book in its files as part of its defense of Apple in this matter.

15 6. Attached hereto as **Exhibit 5** is a true and correct copy of the Preface and Chapter
16 20 (“Stratified Sampling and Cluster Sampling”) of Wooldridge, Jeffrey M., *Econometric*
17 *Analysis of Cross Section and Panel Data*, 2d Ed. (MIT Press, 2010). Jones Day maintains this
18 book in its files as part of its defense of Apple in this matter.

19 7. Attached hereto as **Exhibit 6** is a true and correct copy of portions of the transcript
20 of the deposition of Roger G. Noll, Ph.D., conducted January December 18, 2013. The full
21 transcript is maintained by Jones Day in its files in the ordinary course of business.

22 8. Attached hereto as **Exhibit 7** is a true and correct copy of Cameron, Colin A. and
23 Douglas Miller, *A Practitioner’s Guide to Cluster-Robust Inference* (UC Davis, 2013). Jones
24 Day maintains this article in its files as part of its defense of Apple in this matter.

25 9. Attached hereto as **Exhibit 8** is a true and correct copy of Solon, Gary and Steven
26 J. Haider and Jeffrey M. Wooldridge, *What are we Weighting for?* (NBER, 2013). Jones Day
27 maintains this article in its files as part of its defense of Apple in this matter.

28

