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 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' MOTION TO STRIKE
 THE SUPPLEMENTAL REPORT OF
 KEVIN MURPHY AND ROBERT
 TOPEL DATED DECEMBER 20, 2013
 (ECF NO. 750).**

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

24 1. I am a partner of Jones day, counsel of record for Defendant Apple Inc. I am an
 25 active, licensed member of the State Bar of California. I make this declaration in support of
 26 Apple's Opposition to Plaintiffs' Motion to Strike the Supplemental Report of Kevin Murphy and
 27 Robert Topel Dated December 20, 2013 (ECF No. 750). I am familiar with the file maintained by
 28

1 Jones Day in this matter. The facts stated in this declaration are true and based upon my own
2 personal knowledge, and if called to testify to them, I would competently do so.

3 2. Attached hereto as **Exhibit 1** is a true and correct copy of portions of the transcript
4 of the deposition of Roger G. Noll, conducted May 16, 2013. Portions of this deposition were
5 previously filed with the Court in connection with Apple's Motion for Summary Judgment (ECF
6 No. 74) and Plaintiffs' Opposition (ECF No. 751) thereto. The full transcript is maintained by
7 Jones Day in its files in the ordinary course of business.

8 I declare under penalty of perjury under the laws of the United States of America, that
9 the foregoing is true and correct. Executed this 27th day of January, 2014 in San Francisco, CA.

10 SFI-851009v1

11 /s/ David Kiernan
12 David C. Kiernan

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