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24 **Attorneys for Plaintiff**

25
 26 **UNITED STATES DISTRICT COURT**
 27 **NORTHERN DISTRICT OF CALIFORNIA**
 28 **SAN JOSE DIVISION**

29
 30 THOMAS WILLIAM SLATTERY,)
 31 Individually, And On Behalf Of All Others)
 32 Similarly Situated,)
 33)
 34 Plaintiff,)
 35)
 36 vs.)
 37)
 38 APPLE COMPUTER, INC.)
 39)
 40 Defendant.)
 41 _____)

42 **CASE NO.: C05-00037 JW**
 43 **CLASS ACTION**
 44 **[PROPOSED] ORDER DENYING**
 45 **DEFENDANT'S MOTION TO DISMISS**
 46 **CLASS ACTION COMPLAINT**
 47 **Date: March 21, 2005**
 48 **Time: 9:00 a.m.**
 49 **Place: Courtroom 8, 4th Floor**

1 This matter came for a hearing before the Court on Defendant Apple Computer, Inc.'s
2 ("Apple") motion to dismiss plaintiff's class action complaint. Upon consideration of the motion
3 and opposition thereto, as well as all arguments of counsel, it is HEREBY ORDERED and
4 ADJUDGED that Apple's motion to dismiss the complaint is DENIED.

5 Apple shall file and serve its Answer to the complaint by no later than ten days from the date
6 of this Order.

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8 **IT IS SO ORDERED.**

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10 Dated: _____, 2005

11 Hon. James Ware
United States District Judge

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PROOF OF SERVICE

STATE OF CALIFORNIA)
)ss.:
COUNTY OF LOS ANGELES)

I am employed in the county of Los Angeles, State of California, I am over the age of 18 and not a party to the within action; my business address is 12400 Wilshire Boulevard, Suite 920, Los Angeles, CA 90025.

On February 28, 2005, using the Northern District of California’s Electronic Case Filing System, with the ECF ID registered to Michael D. Braun, I filed and served the document(s) described as:

[PROPOSED] ORDER DENYING DEFENDANT’S MOTION TO DISMISS CLASS ACTION COMPLAINT

The ECF System is designed to send an e-mail message to all parties in the case, which constitutes service. According to the ECF/PACER system, for this case, the parties served are as follows:

Eric J. Belfi, Esq. ebelfi@murrayfrank.com

Attorney for Plaintiff

Adam Richard Sand, Esq. arsand@jonesday.com
mlandsborough@jonesday.com
cyip@jonesday.com

Attorney for Defendant

On February 28, 2005, I served the document(s) described as:

[PROPOSED] ORDER DENYING DEFENDANT’S MOTION TO DISMISS CLASS ACTION COMPLAINT

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Attorneys for Plaintiff

1 by placing a true copy(ies) thereof enclosed in a sealed envelope(s) addressed as follows:

2 I served the above document(s) as follows:

3 BY MAIL. I am familiar with the firm's practice of collection and processing correspondence
4 for mailing. Under that practice it would be deposited with U.S. postal service on that same day with
5 postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware
6 that on motion of the party served, service is presumed invalid if postal cancellation date or postage
7 meter date is more than one day after date of deposit for mailing in an affidavit.

8 I further declare, pursuant to Civil L.R. 23-2, that on the date hereof I served a copy of the
9 above-listed document(s) on the Securities Class Action Clearinghouse by electronic mail through the
10 following electronic mail address provided by the Securities Class Action Clearinghouse:

11 **christi@law.stanford.edu**

12 I declare that I am employed in the office of a member of the bar of this Court at whose direction
13 the service was made.

14 Executed on February 28, 2005, at Los Angeles, California 90025.

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s/ LEITZA MOLINAR

Leitza Molinar