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13
14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **GIORGIO GOMELSKY**, on behalf of
17 himself and all others similarly situated,

18 Plaintiff,

19 v.

20 **APPLE INC.**,

21 Defendants.

Case No. 08-CV-04969 JF

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED**

22 THIS DOCUMENT ALSO RELATES TO:

Case No. 09-CV-01649 RS _____

23 **DEBORAH J. VAIL**, on behalf of herself
24 and those similarly situated,

25 Plaintiff,

26 v.

27 **APPLE, INC.**,

28 Defendant.

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that, pursuant to Civil Local Rule 3-12, plaintiff Deborah Vail
3 submits this administrative motion for the Court to consider whether the recently filed *Vail v. Apple, Inc.*, No. 09-cv-01649, should be related to *Gomelsky v. Apple, Inc.*, No. 08-cv-04969.

5 The *Vail* action may be related to the *Gomelsky* action because it concerns substantially the
6 same parties, property, transaction or event. The cases are against the same defendant, are both
7 putative class actions brought on behalf of persons who purchased PowerBook computers
8 manufactured by Apple, Inc., and both allege that Apple violated California's Unfair Competition
9 Law by selling PowerBook computers with defective memory slots. The *Vail* case also alleges
10 violation of California's Consumers Legal Remedies Act, while the *Gomelsky* case asserts warranty,
11 negligence, and unjust enrichment claims. Copies of the complaints filed in each action are attached
12 to the accompanying Declaration of Eric H. Gibbs.

13 Given the similarities of these actions, it appears likely that there will be an unduly
14 burdensome duplication of labor and expenses and potentially conflicting results if the cases are heard
15 before different judges. Assignment of these cases to a single District Court Judge would conserve
16 judicial resources and promote efficient determination of the actions while avoiding potentially
17 conflicting results. Both cases are at a preliminary stage and, thus, assignment to a single judge would
18 not prejudice any of the parties. Accordingly, plaintiff Deborah Vail respectfully requests that the
19 action entitled *Vail v. Apple, Inc.*, be deemed related to *Gomelsky v. Apple, Inc.*

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21 Dated: April 16, 2009

GIRARD GIBBS LLP

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23 By: /s/ Eric H. Gibbs

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