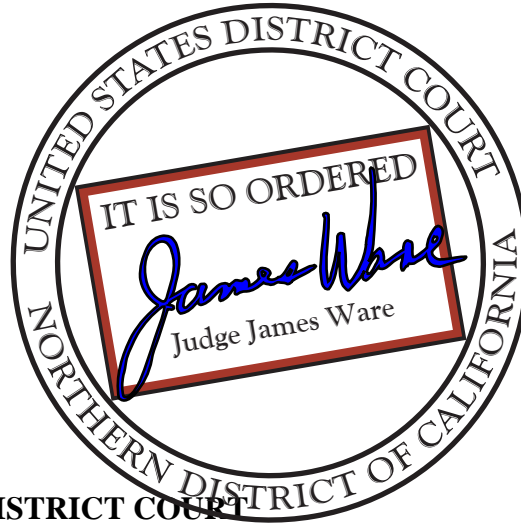


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8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION**

11 JAMES R. PITTMAN, on behalf
 of himself and all others similarly situated,

12 Plaintiff,

13 v.

14 APPLE, INC., a California Corporation,

15 Defendant

) Case No. C 08-05375 JW

) Case No. C 09-01028 RS

)

)

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

) **ORDER RELATED CASES**

)

17
 18 TO DEFENDANT AND ITS ATTORNEYS OF RECORD, THE UNITED STATES DISTRICT
 19 COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, AND ALL OTHER
 20 INTERESTED PERSONS:

21 **PLEASE TAKE NOTICE THAT** Plaintiff James R. Pittman submits this administrative
 22 motion to consider whether cases should be related pursuant to Northern District Local Rule 3-
 23 12. The following pending action is related to the present action - *Pittman v. Apple, Inc.*, Case
 24 No. C 08-05375 JW - within the meaning of Local Rule 3-12(a):

25 (1) *Smith v. Apple Inc., et al.*, Case No. C09-01028 RS, filed in the United States
 26 District Court for the Northern District of Alabama on August 19, 2008, and transferred to the
 27 Northern District of California, San Jose Division, on March 12, 2009.

1 The two actions concern substantially the same parties, property, transaction or event,
2 within the meaning of Local Rule 3-12(a)(1). The cases are both putative nation-wide class
3 actions brought against the same defendant - Apple, Inc. - on behalf of users of the Apple iPhone
4 3G. Both complaints allege that the iPhone 3G was defective when used as intended and that,
5 contrary to representations made, it did not provide reliable 3G data speeds or functionality, and
6 subjected users to poor performance and inordinate numbers of dropped calls. Pursuant to Local
7 Rule 3-12(a)(2), it appears likely that there will be an unduly burdensome duplication of labor
8 and expense or conflicting results if the cases are conducted before different Judges.

9 Therefore, the cases should be ordered related.

10 Respectfully submitted,

11 **LITIGATION LAW GROUP**

12
13
14 Date: March 20, 2009

By: /S/ Gordon M. Fauth, Jr.
Gordon M. Fauth, Jr.

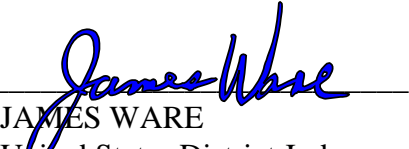
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21 *** **ORDER** ***

22 The Court finds C 09-1028 RS related to C 08-5375 JW within the meaning of Civ. L.R.
23 3-12. Accordingly, the Clerk shall relate the cases. Counselors are instructed that all future
24 filings in any reassigned case are to bear the initials of the newly assigned judge immediately
25 after the case number.

26 Dated: April 2, 2009

27 
28 JAMES WARE
United States District Judge